



**JOINT SUBMISSION BY THE UN COUNTRY TEAM IN KENYA  
For the Universal Periodic Review of Kenya -8<sup>th</sup> Session, May 2010**

**INTRODUCTION**

1. This report was drafted by the United Nations Country Team (UNCT) in Kenya through its HR Working Group<sup>1</sup>. Due to space constraints, this report will not be exhaustive but rather highlight the main issues, which are being addressed by the UNCT. A number of public reports and documents accompanying this report will provide more details on different issues raised therein.

**i. Constitutional and legislative framework**

2. Kenya has ratified 7 of the 9 core international instruments with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and International Convention for the Protection of All Persons from Enforced Disappearance (CPED) and the Optional Protocol to CEDAW.

3. The Constitution of Kenya has a chapter on a Bill of Rights, Chapter 5, which guarantees mainly civil and political rights but is silent on economic, social and cultural rights. Certain provisions in the constitution continue to perpetuate discrimination on grounds of personal law and citizenship despite past recommendations to review these provisions.

4. The constitutional review process has been on-going for over a decade. However, with the signing of the National Peace and Reconciliation Accord in February 2008, there is renewed commitment to the review process with the appointment of the nine-member Committee of Experts whose mandate includes ironing out contentious issues in the constitution and coming up with a harmonized draft for presentation in a referendum.

5. During the period 2004 to date, there have been several legislations enacted aimed at advancing human rights. These include the Prevention and Control of HIV/AIDS Act, Political Parties Act, Sexual Offences Act, Public Officer Ethics Act, Anti- Corruption and Economic Crimes Act, Truth Justice Reconciliation Commission Act, Kenya National Commission on Human Rights Act. While this is good progress, the problem of implementation undermines the impact of all these laws in improving the human rights situation in the country. It is also noteworthy that key legislations that would enhance the realization of rights particularly of

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<sup>1</sup> The Human Rights working group membership comprises of the RC's office, UNDP, UNIFEM, UNFPA, UNICEF, OCHA, UNESCO-Peer, WFP, IOM, UNHCR, UNEP and UN-Habitat

vulnerable groups have not been passed. These include the Matrimonial Property, Marriage, Family Protection, Equality and Trafficking-in-Persons Bills.

6. The UN has been instrumental in supporting efforts to reform the constitutional and legislative frameworks in the country. Following the post-election violence, the UNCT supported the Kenya National Dialogue and Reconciliation talks spearheaded by the Panel of Eminent African Persons and the commissions formed under it such as the CIPEV and IREC. This support has also been extended to various commissions that were formed to spearhead constitutional review, transitional justice and electoral reforms, these include the Truth Justice and Reconciliation Commission, the Interim Boundaries Commission amongst others..

## **ii. (a) Institutional structures and collaboration with human rights mechanisms**

7. The Government has established a number of institutions that focus on protecting and promoting human rights. Key among them is the Ministry of Justice, National Cohesion and Constitution Affairs which is the co-ordinating body for protection and promotion of human rights in Kenya. Others include: Kenya National Commission on Human Rights (KNCHR) with an appropriate mandate for the protection and promotion of human rights; the National Commission on Gender and Development and the National Council for Persons with Disabilities.

8. KNCHR has been at the forefront of addressing violations of human rights including a comprehensive assessment of the human rights violations during the post-election violence and the recent inquiry into extrajudicial killings<sup>2</sup>; its effectiveness is however hampered by lack of adequate resources allocation to support its decentralization.

9. Kenya also boasts of a vibrant civil society sector that raises public awareness undertakes advocacy and monitors government compliance with its obligations under international human rights instruments.

10. In recent years, Kenya has improved on its reporting to treaty bodies. The Government has established an inter-ministerial committee responsible for co-ordinating the implementation of her treaty obligations. However, many reports are overdue and there has been no report to CERD to date, though the last report was due in October 2006. The country has accepted requests of UN special rapporteurs country visits, notable among these being the recent visit in 2009 by the Special Rapporteur on Extrajudicial Killings and the former UN Special Rapporteur on Violence Against Women in Dec 2008.

## **(b) Policy Measures**

11. The past three years have witnessed the enhancement of the policy environment aimed at advancing human rights. Notable among the new policies are; the draft National Policy and

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<sup>2</sup> On the brink of the Precipice: A human rights account of Kenya's post 2007 election violence, KNCHR, 2008

Action Plan on Human Rights; a National Gender Policy and Action Plan; the National Land Policy recently adopted by Cabinet; the social protection policy and Peace Building and Conflict Transformation policy among others. Kenya has also developed a national framework to guide its response to gender based violence (GBV). An Action Plan for the framework is currently being developed.

12. Despite these commendable efforts, there are still high rates of insecurity; armed conflict and violence involving the use of small arms and light weapons as well as persistent and widespread gender based violence. A key challenge is the implementation of these policies as well as gaps in a number of other areas. For instance, there is no policy on internal displacements (IDPs) and forced evictions in spite of advocacy by civil society.

### **iii. Equality and Non-Discrimination**

13. Kenya ratified CEDAW in 1984 and its most recent report was submitted in 2006. The Committee's observations and concluding remarks have highlighted several areas that need urgent attention for example enhancing women's participation in politics and decision making; addressing GBV, and removal of discriminatory provisions in the constitutional and legal framework. Despite this, gender inequalities persist; for example Kenya has one of the lowest numbers of elected women members of parliament in the entire Eastern African region at 8%.

14. Kenya has recently ratified the Convention on the Rights of Persons with Disabilities and has enacted a law to protect them. However, in spite of these normative instruments, implementation remains below par. Employment of persons with disabilities, which is recommended at 5% by the Act is yet to be realized.

15. There is a general feeling of perceived exclusion and marginalization especially of residents of Northern and parts of Coastal Kenya. These regions have been trapped in a perpetual cycle of armed violence/ conflict, poverty due to marginalization in allocation of state resources. In recognition of this perceived exclusion, the government created a Ministry of Northern Kenya and other Arid Lands in 2008 and formulated a draft Arid and Semi Arid Lands Policy. These efforts are yet to be translated into enhanced security, strategies and programmes to facilitate inclusion and more equitable resource allocation to the affected areas.

### **iv. Right to Life, Liberty and Security of the Person**

16. Urban crime and general insecurity has been on the rise; so also are criminal activities by militia groups such as Mungiki, Kisungusungu and others made up mainly of unemployed and disenfranchised youth. The government has set up a National Youth Fund and the Kazi Kwa Vijana (Employment for the Youth) Programme, to help reduce the number of unemployed youth. A UN Joint Programme on Youth Employment and Empowerment was established in October 2009 to contribute to improving economic and social status of youth in Kenya by 2013 through enhancement of youth opportunities for decent and productive livelihoods, reduction of involvement of youth in conflicts, violence and crime and improvement of coordination of youth programmes and programming within the UN. However, a multi-pronged approach including

ensuring arrested criminals face the law will be required on the long run to get the necessary impact.

17. Conflict amongst pastoral and semi-nomadic populations in the north and eastern regions persist and has intensified in 2009 due to resource scarcity and severe drought. Cattle rustling that is often classified as a cultural affliction results in widespread insecurity, violence, loss of life and displacement. Government response has been reactive and sporadic. Disarmament initiatives and extrajudicial killing of suspected cattle rustlers leaves these groups vulnerable to attack from armed neighbours and to a vicious cycle of human rights violations. Fatalities as a result of violence now occur regularly in Isiolo, Marsabit, Laikipia, Turkana, West Pokot and Mandera districts. Between January and September 2009, at least 323 people have been killed in pastoral areas due to resource based conflict<sup>3</sup>.

18. Another key concern is the enforced disappearance of youth suspected of being members of militia groups. Torture, detention without trial, ill treatment in places of detention and massive violations of rights of detainees continues unabated despite recommendations from CAT and other mechanisms for the country to address these violations.

#### **v. Administration of Justice and Rule of Law**

19. The Judiciary is widely considered as lacking independence and slow in the delivery of justice. It reportedly has a huge backlog of some 18,000 cases currently pending in the courts. Despite several recommendations by treaty bodies such as the CEDAW, CESCR and Human Rights Committee, and the appointment of national task forces to assess and make recommendations for reforms in the judiciary, public confidence in the judicial system remains low and the impact of on-going judicial reforms is yet to be felt.

20. There is general lack of respect for the rule of law, while the culture of impunity is prevalent and widespread. Several reports<sup>4</sup> that have documented instances of extrajudicial killing, sexual violence against women and made recommendations for prosecution of perpetrators including law enforcement officials have not been acted on.

21. The Witness Protection system in the country is weak and ineffective. The Witness Protection Act is not yet being implemented. This is a major concern particularly in light of the on-going transitional justice processes and national reconciliation efforts as these weaknesses may continue to jeopardize the willingness and ability of potential witnesses and survivors to come out freely and give information to the different commissions.

#### **vi. Protection of Human Rights Defenders**

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<sup>3</sup> OCHA Humanitarian Update Vol. 53 Kenya

<sup>4</sup> Waki report, Alston report, CAT, KNCHR reports

22. Since the 2007/8 crises increase in threats, intimidation and even death of Human Rights defenders and other citizens who speak out against violations of human rights has been recorded. Investigations into incidents involving human rights defenders have not identified the perpetrators, therefore no one is held accountable.

### **vii. Freedom of Expression**

23. There is an atmosphere of freedom of expression, with the media and individuals being able to contribute to national debates without fear of apprehension. However, the use of hate speech and incitement to violence by political elite is a major concern as it has the potential to fuel continued ethnic violence. Retrogressive laws and policies like the Official Secrets Act are still in the statute books and are a potential threat to the enjoyment of this right. The Freedom of Information Bill has also been pending before parliament since 2005.

### **viii. Forced Eviction**

24. Informal urban settlements and business kiosks are frequently demolished and residents hastily evicted. This occurs with little warning or explanation, and without compensation or recovery assistance. Communities most at risk are in Nairobi: Kibera, Kawangware, Mathare, and Githorogo, where according to some reports, 3000 people were evicted in July 2009 alone<sup>5</sup>. The Ministry of Lands Reforms Transformation Unit is expected to present draft guidelines on eviction and resettlement in April 2010.

25. The **Mau Forest** is a water catchment ecosystem necessary to preserve for the environment, and those who reside in this area are facing mass eviction from November 2009. The government has plans to resettle up to 500,000<sup>6</sup> Mau inhabitants in allocated land and provide monetary compensation.

26. IDP camps from 2007/8 post election violence have been closed and many of the people resettled or relocated. Compensation and official land allocation has been sporadic and there's wide perception of discrimination and exclusion of persons from some ethnic groups.

### **ix. Internal Displacement**

27. As at October 2009, IDP figures in Kenya indicate that despite official closure of the last camp in Eldoret, approximately 800 IDPs remain in the area<sup>7</sup>. 30 transit settlements exist in the Rift Valley, while 19 'self-help groups' host over 6000 households whose legal status is controversial. Protection of IDP women and children is minimal (violence towards women and

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<sup>5</sup> Available at: <http://www.amnesty.org/en/region/kenya>, October 5<sup>th</sup> 2009.

<sup>6</sup> OCHA Humanitarian Update (vol 53) Kenya

<sup>7</sup> OCHA Humanitarian Update (vol 54) Kenya and Min of State for Special Programs

children increased dramatically as a result of living in camps and host communities).<sup>8</sup> The number of displaced persons in urban areas remains unknown.

28. It is pertinent to note that this data is only in reference to those people displaced as a result of the 2007/8 post-election violence. Displaced populations estimated at 300,000 have existed in Kenya since the 1992 and 1997 elections<sup>9</sup>, and the apparent neglect of these previously displaced persons/groups is causing much resentment towards authorities and to those IDPs who are currently receiving support.

29. The Ministry of State for Special Programs is responsible for managing government response to IDPs. In July 2009 the government reaffirmed its commitment to the Great Lakes Protocols on IDPs and in October 2009, the Permanent Secretary of the Ministry of Justice expressed government's intent to draft a National IDP Policy by February 2010 to fill the gap created by the absence of a protection framework for IDPs.

#### **x. Refugees and Statelessness**

30. Kenya currently hosts more than 375,000 refugees and asylum seekers with the majority coming from neighbouring Somalia. In 2009 approximately 2,500 have been resettled while more than 600 have voluntarily repatriated to their countries of origin.

31. In 2006, Kenya domesticated its obligations under the 1951 Convention and passed the Refugees Act. Prior to this time the Government graciously hosted asylum seekers and refugees without a domestic framework, relying on the limited provisions in the National Immigration Act and the Alien Restriction Act. The Refugees Act provisions include rights and duties of asylum seekers and refugees, such as the obligation to conform to the laws of the country and the right to self-sufficiency, to choose the place of residence, to attend schools and to be engaged in economical activities.

32. Since the passing of the Act, the Government adopted the Refugee Regulations and appointed an Inter Ministerial Refugees Affairs Committee. There are continued efforts by the Government, UNHCR and International NGOs to build the capacity of relevant government institutions, especially the Department of Refugee Affairs to take on its responsibilities under the Act. These efforts are yet to yield tangible results.

33. UNHCR commends the Government for its continued commitment to hosting refugees in the country, however, it strongly advocates for the inclusion of freedom of movement in the Government's Policy in line with the 1951 Convention. Currently refugees are required to reside in designated camps as per the Government's explicit encampment policy.

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<sup>8</sup> Figures from Ministry of State for Special Programs, Oct. 2009. (OCHA Website)

<sup>9</sup> Presentation on the Internal Displacement Environment, EHRP Workshop, UNCT, September 2009. (OCHA Website)

In early 2007, the Government closed the Kenya-Somalia border citing security concerns, contrary to international conventions' and the Refugees Act's right to seek asylum. UNHCR continues to advocate with the Government to reverse this decision as the situation in Somalia continues to deteriorate.

34. Kenya is not party to the 1954 Convention on the Status of Stateless Persons or to the 1961 Convention on the Reduction of Statelessness. The Government has no official statistics on the number of stateless persons within its territory. UNHCR reported an estimated number of 100,000 stateless persons, mainly from the Nubian Community. These Nubians are entitled to citizenship under domestic law, but only some of them have been able to obtain identity documents, consequently, many are denied the rights to own property, access to basic social services, discrimination in the participation in the political process and freedom of movement.

#### **xi. Human Rights, Counter-Terrorism and Piracy**

35. Kenya recognizes its duty to protect its population from violent criminal acts such as terrorism and piracy. The Government established the National Counter Terrorism Center in January 2004 as well as a National Security Advisory Committee to oversee its operations. In April 2003, Kenya published a draft "Suppression of Terrorism" bill, but withdrew it in 2004 due to pressure emanating from human rights concerns. A new draft law is being finalised. Kenya is also in the process of drafting an anti-money laundering and counterterrorism finance legislation needed to bring the country into compliance with relevant UN resolutions. UNODC has been providing technical assistance to the drafting processes.

36. There have been many security improvements at airports (including aircrafts) hotels, and the Kenyan military has drastically increased its numbers on the Somalia border, and now works closely with police elements in the region to block Council of Islamic Courts (CIC) forces and associated individuals from infiltrating the nation's territory.

37. The number of reported piracy attacks in East Africa, has risen astronomically since 2004. In 2008 alone there were a total of 135 attacks, resulting in 44 ships seized by pirates and more than 600 seafarers kidnapped and held for ransom. Kenya is currently holding more than 100 piracy suspects from neighbouring Somalia.

38. Despite efforts by IMO in conjunction with UNODC, the Ministry of Transport, Kenya Maritime Authority and Police, Kenya still registers slow progress towards the overall strengthening of its capabilities to combat piracy and terrorism, prosecute the suspects, or respond to emergency situations. The absence of appropriate national legislation in compliance with UN conventions increases difficulties in relation to detention of terror and piracy suspects as well as their effective prosecution using existing laws.

#### **xii. The Right to a Clean and Healthy Environment**

39. In 1999 Kenya adopted the Environmental Management and Co-ordination Act (EMCA) providing legal and institutional frameworks as well as procedures in the management of the

environment and conflicts deriving there from. This was in recognition of the need for legal and administrative co-ordination of the diverse sectoral initiatives in order to improve the national capacity for the management of the environment.

### **xiii. Right to Water**

40. Kenya has a history of being a water deficient country with the continuous land degradation and the reduction of the forest cover and wetlands contributing to its droughts. The sporadic and variable seasonal rains have affected the recharge of surface water bodies particularly earth dams, subsurface dams, earth pans, ponds, streams and seasonal rivers, as well as recharge of aquifers for underground water.<sup>10</sup> This has led to the depletion of surface water greatly affecting the Northern, North Eastern and Coastal regions. Short-term solutions for example, the drilling of boreholes have been carried out throughout the country but this does not provide the long-term solution to the increasing problem of water shortages.

41. At the turn of the century the forest cover of the country was at a high of 30%; that has now decreased to a figure of less than 2%. The Forest Act of 2007 provides for the establishment, development and sustainable management of the conservation and utilization of the forest resources.

42. Several policies regarding water have been established in the country including the National Water Master Plan (NWMP) of 1974 and the National Water Act (NWA) of 2002, yet over half a million people in drought affected areas are in need of emergency water supplies.<sup>11</sup> The acute water shortage has led to an increase in outbreaks of diseases such as diarrheal diseases, cholera and dysentery. The NWMP aimed at ensuring the availability and access to potable water to all by the year 2000. By the year 2000, 1.4 million people in urban settings and 4.7 million people in rural settings had access to water<sup>12</sup>. By 2006, the percentage of the population with sustainable access to improved drinking water in rural areas was 49% and in urban areas was 85%.<sup>1</sup> However, the privatization schemes and the diversion of water to large farming industries, for example flower farms and tea plantations, have affected the supply of water to many parts of the country and increased the costs of access for ordinary households and individuals.

### **xiv. Climate Change**

43. The effects of climate change are evident given the current drought and the decrease in the agricultural production in the country. Displacement as a result of climate-related factors has gained significant attention as agencies and governments prepare for talks in Copenhagen in

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<sup>10</sup> IFRC, Emergency Appeal: Kenya Drought, 2009

<sup>11</sup> UNICEF Webpage, available at: [http://www.unicef.org/infobycountry/kenya\\_2621.html](http://www.unicef.org/infobycountry/kenya_2621.html)

<sup>12</sup> Access to improved water sources for rural area was at 46% while in urban areas it was 89%(2002). Access to improved sanitation in urban areas was 56% while in rural it was 43%.

December 2009. Disaster risk reduction strategies remain in early stages; the Kenya Red Cross Societies (KRCS) and IGAD have adopted an MOU aimed at linking scientific knowledge of disaster prediction with practical adaptation in the field, yet in the interim, Kenyans find themselves at increasing risk of displacement due to climate-related disasters. Mitigation of effects of natural disasters involves reactive measures typically undertaken by the Kenyan Red Cross.

44. The land mass occupied by the pastoralist population in the Northern part of the country accounts for two thirds of the geographical space. The changing climate has affected their migratory patterns fuelling conflicts over the scarce resources and assets in the region. Erratic rainfall, drought, and resulting food shortages put these groups under pressure to migrate further in search of water and pasture. This puts them in direct contact with other pastoralist communities who are equally strained, thus conflict and competition over resources ensues. According to experts approximately 750,000 people are at risk of severe flooding during October and December 2009.

45. The Government should invest in protection initiatives for communities that are affected by drought, floods, and those living in vulnerable areas affected by climatic change. Production, storage and harvesting of water to reduce reliability on the rains are necessary to cushion the adverse effects of the rainfall variability. Furthermore, the Government should also create markets and value addition for crops and livestock for the pastoral regions in order to increase their incomes through better markets which are crucial to their survival.

46. There are currently no policies and no accountability measures in place for the pollution of the environment in the country. The EMCA mentions the responsibility for those accountable for the degradation of the environment to restore it to its immediate condition prior to the damage and provide compensation to any victims of pollution.<sup>13</sup>

## **xv. Land and Land Management**

47. Kenya's draft National Land Policy to address the issues of unequal distribution of land, the conservation and use of land, is yet to be passed by Parliament. The urban population of Kenya is approximately 34 per cent, with an annual population growth rate of 6 per cent in urban and slum settings.<sup>14</sup> In Nairobi, around 60 % of people reside in slum dwellings bringing the number to an approximation of 4 million people occupying around 5 per cent of land.<sup>15</sup> The Kenya Slum Upgrading Programme aims at addressing the inadequate implementation of the upgrading schemes, the low quality shelter and insecure tenure as well as the inadequate infrastructures among others. Government is carrying out slum upgrade schemes; this has so far involved the

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<sup>13</sup> The Environmental Management and Co-ordination Act 1999

<sup>14</sup> UN-HABITAT webpage

<sup>15</sup> Oxfam report 2009- Urban poverty and Vulnerability in Kenya

relocation of 1,500 families from Soweto East, one of Kibera's twelve slums.<sup>16</sup> The vision is to do away with shanties in ten years. There is a need for human rights based strategies which encourage participation of the community to address issues such as access to water, improved infrastructures, electricity and the securing of tenure ship of the land in slums to facilitate the construction of better housing.

48. The laws relating to land in the country are discriminatory against women who own only 1 per cent of land. Customary laws and traditions inhibit inheritance and ownership of land by women. The Special Rapporteur on Adequate Housing in 2004 highlighted the challenges faced by women in ensuring access and ownership of land, which still remain to be addressed<sup>17</sup>.

#### **xvi. Right to Food**

49. Kenya is affected by severe drought situation contributing to food insecurity nationally. As of August 2009 the Government figures on people severely facing severe food shortages at household level is around 10 million people out of a population of 37 million. The Government's emergency response program in conjunction with WFP is feeding 3.8 million vulnerable persons and an additional 1.5 million primary school children in drought affected areas found in need of humanitarian assistance. The Global food crisis, and severe water shortages, access to land and conflict in various areas in the country has a profound effect on access and availability of food. UNICEF reports that a quarter of all children in the country are acutely malnourished<sup>18</sup>. Several Government and inter-governmental agencies projects have been set up around the country to facilitate the access to food. The Purchase for Progress, Food for Assets and Cash Vouchers as well as the Economic Stimulus Plan by the Government and development partners are providing free subsidized inputs, for example, fertilizer and seeds and vaccines. FAO is responding to the drought and soaring food prices by supporting livelihoods, resilience and access to food through supply of inputs such as seeds, fertilizers and vaccines. These initiatives have involved over 50,000 households (about 300,000 people) through the voucher/ input fair system. About 8 million livestock (cattle, sheep, goats, camels) have been vaccinated for various diseases (PPR, RVF, FMD, LSD). On emergency and disaster preparedness, FAO through the integrated phase classification (IPC) is providing early warning information on food availability and access for the Kenya Food Security Steering Group (KFSSG) and capacity building for the district steering groups (DSGs).

50. Agriculture allocation in the national budget had been increased to 6% in 2008-2009 which has now been reduced to less than 4% in the current budget 2009-2010. The Maputo Declaration

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<sup>16</sup> Daily nation of 17<sup>th</sup> September 2009

<sup>17</sup> Report by the Special Rapporteur, ESCR Adequate housing as a component of the right to an adequate standard of living 2004, pg 14.

<sup>18</sup> UNICEF Humanitarian Action Update, Kenya 2009 and UNICEF webpage available at: [http://www.unicef.org/infobycountry/kenya\\_2621.html](http://www.unicef.org/infobycountry/kenya_2621.html)

highlights the need for the increase in the national budget for agriculture to 10% and improving the funding by donor countries. The economic review on agriculture (2007) showed that 51% of the Kenyan population lacked access to adequate food while the linkage between inaccessibility to food and poverty stood at 40%.<sup>19</sup> The National Food Security and Nutrition Policy is currently being reviewed by the Government; it addresses key issues including food access, availability, nutrition, food quality and safety.

### **xvii. Right to Health**

51. The access to adequate health care is limited in rural areas especially among the pastoral and other nomadic communities. Many are required to travel long distances to access health facilities, as there are no current mobile clinical services. The lack of a social service plan in Kenya results in many being denied health services as many cannot afford it. The current Government budget on health is approximately 6.8 per cent.<sup>20</sup>

52. The Kenyan Government adopted a policy to allow free access to antenatal and post-natal services for all. The antenatal care coverage at least for one visit is 88% and 56% for at least 4 visits. As of 2007, the maternal mortality rate was 1000 to 2000 per 100,000 live births, the infant mortality rate lies at 79 % in 2003 while it was 62 in 1990 per 1,000 live births for both sexes, the neonatal mortality rate (per 1000 live births) is 29 and the contraceptive prevalence by married women is between 31-39 per cent.<sup>21</sup> The births attended by skilled health staff lies at 42%. The contentious issue of abortion in the Maputo Plan of Action led to the failure of its adoption by the Government. UNICEF reports wide regional disparities in immunization rates in drought prone areas of the North Eastern province with vaccination coverage of 37%.<sup>22</sup> Kenya's Expanded Programme on Immunization vaccinated more than 3 million children against deadly diseases and notes that the insecticide-treated bed nets have kept malaria at bay in the North Eastern Province.

53. The continuous practice of early marriage and female genital mutilation (FGM) impacts severely on the health of young girls. These practices are usually carried out in unsanitary conditions leading to a high rate of septic infections and HIV transmissions. FGM is practiced by certain ethnic communities to women ranging between 6-90% their different communities.

### **xviii. Right to Education**

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<sup>19</sup> National Economic Survey 2008

<sup>20</sup> Budget Strategy Paper 2009 (Ministry of Finance)

<sup>21</sup> Demographic Health Survey and the Global Gender Gap Report 2007

<sup>22</sup> UNICEF webpage, available at: [http://www.unicef.org/infobycountry/kenya\\_2621.html](http://www.unicef.org/infobycountry/kenya_2621.html)

54. Kenya's free and compulsory education system has increased the gross enrolment rates to over 90 per cent nationally; however, it is still not accessible to children from poor households. As of 2007 the literacy rate was 70% for females and 74 % for males. Adult literacy rate was 73, 6%. The enrollment in primary education stood at approximately 66%<sup>23</sup> while for secondary the figure dropped to 42%, and in tertiary education 5% for females and 4% for males.<sup>24</sup> The quality of education remains an issue as current student-teacher ratios stand at approximately 100 to 1. The lack of technical vocational training is contributing to the absence of the required qualified individuals to boost some sectors of the economy. The initiative by the Government in creating community development bursary funds (CDF) was to facilitate easing the economic burden of households that are unable to access free education. The management of CDF should be done in a more effective manner especially in delivery and utilization of these public resources. The current budget allocation to education stands at 23.6%.<sup>25</sup>

55. In some parts of the country there are high levels of school girls drop out due to early marriages and pregnancy. Protection and special programs are inadequate to deal with these problems and result in too many girls unable to fulfil the compulsory education program in place in the country.

#### **xix. Cultural Rights**

56. Several concerns have been raised on suppression of culture and tradition as a result of globalization. Many parts of the country prefer teachers from their ethnic groups in schools in their areas. In 2008, peace education was introduced in the school curriculum. In line with Kenya's Vision 2030, peace education is under the political pillar on security, peace building and conflict management in regard to promoting process for national and intercommunity dialogue.<sup>26</sup> The aim is to build harmony among ethnic, racial, and others interest groups inculcating a culture of respect for the sanctity of human life that does not resort to the use of violence.

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<sup>23</sup> Between 1998 and 2004

<sup>24</sup> Global Gender Gap Report 2007

<sup>25</sup> Budget Strategy Paper 2009 (Ministry of Finance)

<sup>26</sup> Peace Education Training Manual 2008.

